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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



STEVEN E. CHESTER  
DIRECTOR

March 4, 2009

1. Bill Number and Sponsor:

House Bill (HB) 4458  
Representative Fred Miller

2. Purpose:

This bill amends Section 13815 of the Medical Waste Regulatory Act (MWRA), Part 138 of the Public Health Code, 1978 PA 368, as amended, and is intended to supplement the amendments proposed in HB 4459. This bill would create new regulatory burdens for the Department of Energy, Labor, and Economic Growth (DELEG) and additional requirements for trauma scene waste management practitioners, as follows:

- Requires that a company and/or individual that handles and disposes of trauma scene waste register with the DELEG and pay a \$75 fee, renewable every three years.
- Requires program staff within the DELEG to evaluate applications and supplemental documentation and deny or approve an application for registration. The DELEG must respond and indicate the reason for denying an application. It also allows the applicant to reapply under the same conditions.
- Requires the DELEG to conduct a criminal background check initially prior to issuance of a registration and every three years thereafter upon renewal of an application. The registrant would be required to cover the cost associated with the background check.
- Requires the DELEG, within 90 days of the enactment of the bill, to consult with the trauma scene waste management industry and the healthcare industry to develop and establish standards relating to employee safety devices, equipment, and cleaning supplies used in trauma scene waste management.
- Requires a trauma scene waste management practitioner to develop and maintain a "trauma scene waste management plan" that incorporates the standards developed above and is updated or reviewed by the registrant at least annually.
- Requires the DELEG to post and maintain a current listing of registered trauma scene waste management practitioners on the program Web site and provide this listing to other public agencies or the general public upon request.

3. How This Legislation Impacts Current Programs in the Department:

As described above, this bill adds regulatory burdens and compliance requirements for trauma scene waste management companies that are more stringent than any other

medical waste producing facility that is required to register with the Department of Environmental Quality (DEQ) under the MWRA. The bill would require program staff in the DELEG to conduct a criminal background check of any individual who owns, operates, or is a "key employee" of a trauma scene waste removal company prior to the issuance of a certificate of registration as a trauma scene waste management facility. The background check would be required initially and each time the registration is renewed (every three years). The bill also requires the DELEG to evaluate a submitted application, along with a "trauma scene waste management plan," and make a determination as to whether or not a certificate of registration can be issued to the company.

4. Introduced at Agency Request:

No.

5. Agency Support:

No.

6. Justification for the Department's Position:

The new definitions and requirements proposed in this bill are either redundant or unnecessary for the effective regulation of the trauma scene waste management industry. The amendments proposed under HB 4459 alone would require trauma scene waste management companies to register with the DEQ and subject them to the same requirements as all other medical waste producing facilities that includes private physicians' offices, medical waste treatment facilities, hospitals, nursing homes, medical waste haulers, and tattoo/body art facilities. Trauma scene waste management companies, which would not have a specific exemption, would be required to comply with the MWRA in all respects with regard to the proper handling, treatment, and disposal of regulated medical waste.

This bill also imposes an increased regulatory burden on one specific industry that generates medical waste. All other medical waste producing facilities under the purview of the MWRA would be subject to less stringent requirements. In doing so, the bill seems to imply that trauma scene waste management practitioners either generate medical waste that is more dangerous than other producing facilities or have a higher propensity toward violating the MWRA. The DEQ is not aware of any information or evidence to support this conclusion.

A concern has been raised that trauma scene waste management practitioners may be entering into a person's home during a particularly vulnerable time and that they could take advantage of this contact. The criminal background check is not required of other occupations (e.g., painters, plumbers, cleaners, etc.) that enter a person's home to conduct business. In addition, only "key employees," a term that is used but not defined in the bill, and not all employees that may be performing trauma scene cleaning duties in a residence, are required to have a criminal background check performed. Therefore, the bill does not seem to address the actual concern that has been stated.

The bill also requires trauma scene waste management practitioners to update their trauma scene waste management plans annually. All other producing facilities are required to perform a review of their medical waste management plans every three years or when a significant change occurs in the plan. No justification is provided for the more stringent requirement for trauma scene waste management practitioners.

Several of the requirements unique to this bill fail to specify or describe what the DELEG procedures or duties would be for the registration of trauma scene waste management practitioners. Proof of financial responsibility (insurance) would be required to be sent to the DELEG as part of an application review, in addition to other documentation. The monetary amount of insurance that would be required on the policy is not specified. The bill also states that a determination would be made by the DELEG following a background check as to whether or not a registration would be issued. It fails to clarify the nature of the offense that would lead to a denial of a registration and does not provide a basis for denial of a registration. It is not clear if this would include specific types of misdemeanors, felonies, or warrants issued, e.g., failure to pay child support or driving under the influence. It is not specified if the criminal background check is to be conducted at the state level or at the national level.

If the bill passes, within 90 days of the effective date of the amendment and on a continuing basis, the DELEG would be required to consult with the trauma scene waste management industry and the health care industry to develop standards relating to personal protection, equipment to be used, and chemicals to be used in cleaning and disinfecting a trauma scene. The Michigan Occupational Safety and Health Administration (MIOSHA) regulates employee safety training, protective devices used, etc., under the Occupational Health Standard, Part 554, Bloodborne Infectious Diseases, of the administrative rules promulgated pursuant to the Michigan Occupational Safety and Health Act, 1974 PA 154, as amended. The requirement for development of additional standards is, therefore, unnecessary and would essentially create a duplicative function within the DELEG, under which MIOSHA is included.

Effective regulation of the trauma scene waste industry can be accomplished by the DEQ under HB 4459 alone and does not require the administration of the MWRA by two separate departments.

7. State Revenue/Budgetary Implications:

Minimal additional revenue is anticipated from the \$75 registration fee paid every three years, and it will not be sufficient to fund any staff resources in the DELEG to implement the new registration program.

This bill also imposes a new fee to reimburse the DELEG for the costs associated with conducting criminal background checks for the trauma scene waste management industry.

8. Implications to Local Units of Government:

None.

9. Administrative Rules Implications:

Creation of rules by the DELEG would be necessary to clarify the requirements for financial insurance and criminal background checks; the basis for registration approval or denial; and the standards relating to personal protection, equipment to be used for personal protection during spill cleanup, and chemicals to be used for spill cleanup.

10. Other Pertinent Information:

This bill is tie-barred to HB 4459. The proposals in this bill were suggested to a stakeholder work group considering possible amendments to the MWRA by one of the members of that work group. The work group did not support such amendments because they were considered unnecessary or redundant.

HB 4459, in contrast, is the result of extensive review, revision, and careful consideration in an agreement reached over several years via work group meetings and correspondence between representatives of the health care industry, the medical waste treatment/disposal industry, and the DEQ.

A handwritten signature in black ink, appearing to read 'S. E. Chester', is written over a horizontal line.

Steven E. Chester, Director  
Department of Environmental Quality